




Report to the Auburn City Council

Action Item
Agenda Item No. 13
City Manager's Approval

To: Mayor and City Council Members
From: Lance E. Lowe, AICP, Associate Planner 
Date: July 8, 2013
Subject: Resolution to Prohibit Smoking in the City's School Park Preserve

The Issue

Should the City Council Adopt a Resolution to Prohibit Smoking in the City's School Park Preserve Property (**Attachment 1 – Location Map**)?

Conclusions and Recommendation

Staff recommends that the City Council:

Adopt the attached Resolution, Prohibiting Smoking in the City's School Park Preserve Property (**Exhibit A**).

Background

On January 14, 2013, the City Council considered whether or not to initiate a Proposed Ordinance Banning Smoking in the Auburn School Park Preserve. After discussion and consideration of the request by Councilman Holmes, the City Council directed the City Attorney and staff to develop a proposed ordinance banning smoking in the Auburn School Park Preserve (Motion: Holmes/Kirby/Approved 4:1 (Councilman Hanley voted no)(**Attachments 2 & 3 – City Council Staff Report and City Council Excerpt Minutes dated January 14, 2013**).

In accordance with *Section 101.070* of the *Auburn Municipal Code*, the City Council may establish by resolution, rules and regulations governing use and operation of city parks, recreational areas and public spaces. Accordingly, in consultation with the City Attorney, staff has prepared a resolution to prohibit smoking in the City's School Park Preserve property for Council consideration.

Analysis

Smoking in the School Park Preserve exposes members of the public to the harmful effects of second hand smoke and is harmful to the public health and welfare of the citizens of Auburn. Moreover, smoking poses serious threats to the environment, including, but not limited to fire

hazards, littering and air pollution. Prohibiting smoking in the City's School Park Preserve Property serves the public health, safety and welfare of the citizens of Auburn.

As defined in the resolution, "Smoking" or to "Smoke" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including but not limited to, a pipe, cigar, or cigarette of any kind.).

Adoption of the attached resolution will be in addition to the rules currently in effect at the Park Preserve Property (**Exhibit B**). If adopted, the smoking prohibition will go into effect upon the posting of signage giving notice of the no smoking restriction.

Public Works staff has indicated that the signs can be manufactured in-house and anticipates that the signs can be manufactured and installed within 30 days of adoption of the resolution.

Alternatives Available to Council; Implications of Alternatives

1. Adopt the Resolution to Prohibit Smoking in the City's School Park Preserve Property
2. Deny the Resolution to Prohibit Smoking in the City's School Park Preserve Property.
3. Provide Additional direction to Staff.

Fiscal Impacts

The Public Works Department can manufacture the signs; however, initial costs will be incurred for materials of the signage to be installed in the park. Staff anticipates an estimated cost of \$75.00 per sign. The signage can be attached to existing light poles. Enforcement of the No-Smoking Resolution will require policing of the Park Preserve. However, the citations issued are anticipated to recoup the policing costs anticipated. Therefore, no long impact on the General Fund is anticipated.

Additional Information

Please see the following for more details:

ATTACHMENTS

1. Location Map
2. City Council Staff Report dated January 14, 2013
3. City Council Excerpt Minutes dated January 14, 2013

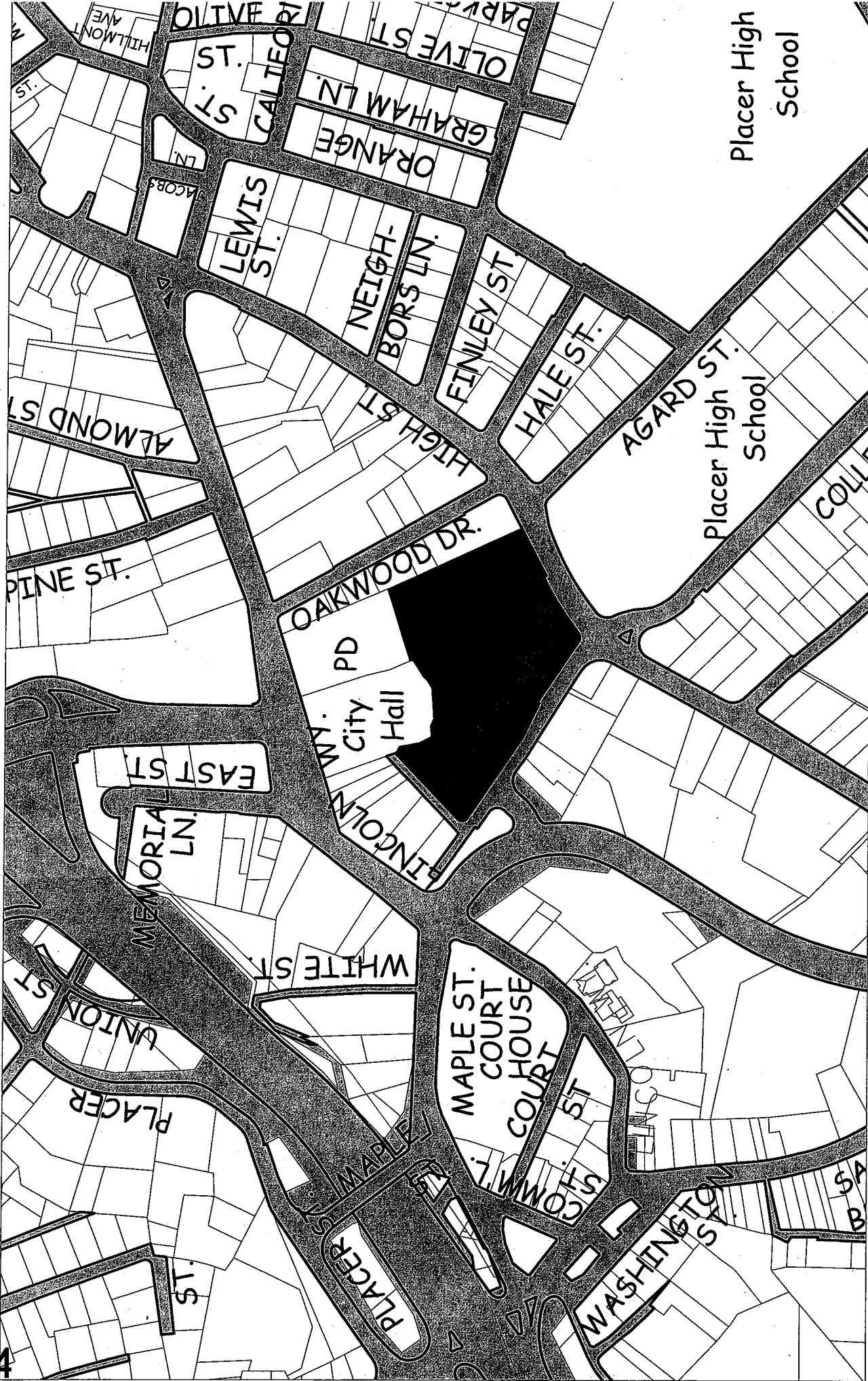
EXHIBITS

- A. Resolution No. 13-_____ Amending Rules and Regulations Governing the Use and Operation of the School Park Preserve
- B. Staff Report dated July 14, 2008 with Attachments



ATTACHMENTS

School Park Preserve Property





Report to the Auburn City Council

ATTACHMENT 2
Action Item

Agenda Item No. 21

City Manager's Approval

To: Mayor and City Council Members
From: Council Member Mike Holmes
Prepared by: Amy M. Lind, Deputy/Assistant City Clerk
Date: January 14, 2013
Subject: Proposed Ordinance Banning Smoking in the School Park Preserve

The Issue

Shall the City Council direct the City Attorney and staff to develop a proposed ordinance banning smoking in the Auburn School Park Preserve?

Conclusion and Recommendation

That the City Council, by MOTION, direct the City Attorney and Staff to develop a proposed ordinance banning smoking in the Auburn School Park Preserve.

Background

Since its completion several years ago the Auburn School Park Preserve has hosted a number of civic and arts events including the Auburn Symphony and Arts in the Park. It has also become a Mecca for youth who smoke and eat lunch and other meals in the park. This has resulted in a good deal of trash and cigarette ends left around the park and picnic tables. Clean up of the trash and cigarette ends usually only takes place on a complaint driven basis.

Although skateboarding is already banned in the Auburn School Park Preserve, it needs to be enforced. Skateboarders endanger people strolling on the paved walkways and use the Cooper Amphitheatre and bridge to try to perform their trick maneuvers. Luckily no one has been injured or seriously hurt up to this time.

Annually the American Lung Association gives an "F" to the City of Auburn for not taking steps to encourage the reduction of smoking in our parks and in the city. While ARD is responsible for the other large recreation areas in the city limits, we, as a city, can take steps to demonstrate a public policy that discourages smoking. ARD does ban smoking at Ashley Park.

Since there is no existing city ordinance that covers this issue there is no clear method of enforcement available to APD should complaints be received.

Alternatives

Do nothing
Add other pocket parks to the ordinance
Add transit bus stops to the ordinance.

Fiscal Impact

None identified at this time.

CITY COUNCIL MINUTES

**January 14, 2013
REGULAR SESSION**

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, January 14, 2013 at 6:05 p.m. with Mayor Hanley presiding and City Clerk Stephanie Snyder recording the minutes.

CALL TO ORDER at 5:30 p.m.

ROLL CALL:

Council Members Present: Bridget Powers, Kevin Hanley, Keith Nesbitt, William W. Kirby

Council Members Absent: J. M. "Mike" Holmes (entered at 5:31 p.m. and was present for closed session)

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Public Works Engineer Carie Huff, Transit Analyst Megan Siren, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Kirby/ Powers/ Unanimously approved by voice

1. **Conference with Labor Negotiators:**
(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Auburn Police Officers Association

REPORT OUT OF CLOSED SESSION

Mayor Hanley reported that instructions were given to the labor negotiators and there were no other reportable actions.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

Council Member Holmes asked about Community Development Block Grant loans status, past results in audits, and the redevelopment property.

Mayor Hanley asked for more information about the Governmental Accounting Standards Board (GASB) Statement #54.

Richard Sanborn, resident of Auburn, commented on Sewer and Airport Funds, wanting to be sure restricted funds are not borrowed and used for anything else.

Andy Heath assured him they are not, and invited him to visit his office at any time for more information.

Council Member comments followed congratulating Andy Heath on the thorough report and thanked him and his staff for their work.

20. **Support for American River Canyon Overlook Facility**

Council Member Holmes presented this item. He gave background on this project which is proposed to be built on county property. He said the Auburn State Recreation Area (ASRA) has submitted a proposal for a grant for the first phase of construction.

Council Member questions followed regarding funding for maintenance for the facility, the county's responsibilities, and the grant awarding organization.

Mike Lynch, State Parks Superintendent for the Auburn State Recreation Area, provided additional background on this facility. He said it is a transportation related mitigation grant through their organization. He said they are looking for community support for this grant. He said if they receive the grant, they will finalize a contract with Placer County for future maintenance.

Council Member comments followed regarding supporting the ASRA by sending a letter of support.

By **MOTION**, approve the submission of a letter of support for the American River Canyon Rim Overlook Facility grant application to the Gold Fields District, California Department of Parks and Recreation.

MOTION: Holmes/Powers/Approved 5:0

21. **Proposed Ordinance Banning Smoking in the Auburn School Park Preserve**

Council Member Holmes presented this item. He said his concerns with the park include trash and illegal marijuana smoking. He said the City of Auburn receives a grade F in the annual report from the American Lung Association. He said this could be an action to signify that the city is interested in reducing the amount of smoking in public recreation areas.

Council Member Nesbitt asked about enforcement of this type of ordinance.

Council Member Kirby spoke about the negative effects of smoking and his personal experience with many smoking related cancers. He said smoking should be banned in all public areas of the city. He said he would like to see a ban on smoking in Central Square. He said smoking in public areas like these is extremely offensive. He spoke of the danger of second hand smoke to all the people around the smoker.

Council Member Nesbitt said he would like to see a smoking ban at transit shelters due to mobility issues of some people using public transportation.

Mayor Hanley said he is not in favor of this item. He said he doesn't feel a ban on smoking in the park would deter people from smoking. He said second hand smoke is a problem in confined areas. He said the School Park Preserve is not a confined area. He said a more effective law to deter people from smoking would be health insurance premium ratings for tobacco users. He said he visited the park this afternoon and does not see an issue with littered cigarette butts. He spoke of other ways to make the park cleaner. He said he feels it is wrong to suggest there is marijuana smoking occurring in the park, without evidence. He said it would not be a good use of Auburn officer's time to enforce a no smoking law in the park. He said he favors further efforts to make sure the park is clean and further efforts to try to reduce smoking. He said it is not worth the city's resources to start fining people in a park who smoke. He said they are not causing anyone any harm.

Council Member Kirby reiterated that a smoker sitting on a park bench smoking effects people 20 feet around them. He said in a public area that should not be tolerated. He said smokers are denying other people the right to use that space by their ignorant and offensive behavior which should not be condoned by the city.

By **MOTION**, direct the City Attorney and staff to develop a proposed ordinance banning smoking in the Auburn School Park Preserve.

MOTION: Holmes/Kirby/Approved 4:1 (Hanley voted no)

CITY COUNCIL REPORTS

22. **City Council Committee Reports**

Council Member Kirby reported on the Placer Nevada Wastewater Authority and the importance of coming to a wastewater solution. He also reported on the homeless problem in the area and the great work by the Gathering Inn.

Council Member Holmes reported on the 125th anniversary of the reincorporation of the City of Auburn, SEDCorp JPA, Placer County Air Pollution Control District grants, Auburn Placer Performing Arts Center grant, Placer Consortium on the Homeless meeting, Auburn State Recreation Area, and a proposed change to Auburn Chamber of Commerce bylaws.

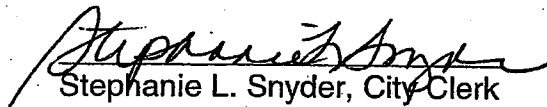
Council Member Nesbitt reported on SHAAC's recent meetings, Downtown Business Association meeting regarding Christmas Lighting in the future, Economic Development Commission's recent activities, and the Oversight Committee to the Successor Agency.

ADJOURNMENT

Mayor Hanley adjourned the meeting without objection at 8:15 p.m.



Kevin Hanley, Mayor



Stephanie L. Snyder, City Clerk

EXHIBITS



EXHIBIT A

RESOLUTION NO. 13-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN AMENDING
RULES AND REGULATIONS GOVERNING USE AND OPERATION OF THE SCHOOL
PARK PRESERVE

WHEREAS, Auburn Municipal Code *Section 101.070* authorizes the City Council to establish by resolution rules and regulations governing the use and operation of city parks, recreational areas and public spaces; and

WHEREAS, the City Council finds that allowing smoking in the School Park Preserve exposes members of the public to the harmful effects of second-hand smoke, and is harmful to the public health and welfare of the citizens of Auburn; and

WHEREAS, smoking poses serious threats to the environment, including but not limited to fire hazards, littering, and air pollution; and

WHEREAS, the City Council desires to strike a reasonable balance between the needs of persons who smoke and the needs to non-smokers, including children, to breath smoke-free air, recognizing the threat to public health and the environment which smoking causes; and

WHEREAS, the City Council recognizes the right of residents and visitors to the City to be free from unwelcome second-hand smoke.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN DOES
HEREBY RESOLVE AS FOLLOWS:

- a. That the rules and regulations previously adopted by the City Council for the School Park Preserve shall continue to be valid and in effect without interruption following this amendment.
- b. That in addition to the rules currently in effect, smoking is prohibited in the School Park Preserve.

1 c. "Smoking or to "Smoke" means possessing a lighted tobacco
2 product, lighted tobacco paraphernalia, or any other lighted
3 weed or plant (including but not limited to, a lighted pipe,
4 lighted cigar, or lighted cigarette of any kind), or the lighting of
5 a tobacco product, tobacco paraphernalia, or any other weed or
6 plant (including but not limited to, a pipe, cigar, or cigarette of
7 any kind).

8 d. That this resolution shall be effective upon the posting of signs
9 at or in the School Park Preserve giving notice of this resolution.
10

11 DATED: July 8, 2013
12

13 _____
14 Kevin Hanley, Mayor

15 ATTEST:

16 _____
17 Stephanie Snyder, City Clerk

18 I, Stephanie Snyder, City Clerk of the City of Auburn, hereby certify that
19 the foregoing resolution was duly passed at a regular meeting of the City
20 Council of the City of Auburn held on the 8th day of July 2013 by the following
21 vote on roll call:

21 Ayes:

22 Noes:

23 Absent:

24 _____
25 Stephanie Snyder, City Clerk
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Report to the Auburn City Council

Action Item *12*
Agenda Item No.

City Manager's Approval

To:	Honorable Mayor and City Council Members
From:	Valerie Harris, Chief of Police
Date:	July 14, 2008
Subject:	Second Reading of an Ordinance Establishing City Recreational Facilities Rules, Regulations and Penalties

The Issue

Shall the City Council approve the second reading of the ordinance establishing the ability to enforce rules and regulations governing use and operation of city parks, recreational areas and public spaces (collectively, "recreational facilities")?

Conclusions and Recommendation

Staff recommends that the City Council authorize the second reading of an ordinance regulating use and operation of city recreational facilities, and authorizes penalties for non compliance of established rules.

Background & Analysis

On June 23, 2008 The Auburn City Council authorized the first reading of an ordinance establishing rules and regulations governing the use and operation of city parks, recreational areas and public spaces (collectively, "recreational facilities"). The need for such an ordinance became apparent with the establishment of the new School Park Preserve. Community members expressed concern with the use of skateboards, skating devices, bicycles or motorized vehicles in the park that could cause costly damage to the School Park Preserve.

The first reading of the ordinance to council indicated non-compliance with properly posted rules and regulations would result in penalties for non compliance of these specifically established rules. The City of Auburn Municipal Code for Administrative Enforcement (Sections 10.80 -10.96) in Chapter 10 of Title I shall be the authority and outline the process and defined penalties that shall apply when non-compliance occurs.

The attached resolution if adopted establishes the rules and regulations governing use and operation of conveyances at the School Park Reserve. The ordinance restricts the use of the above mentioned conveyances and provides for an exception for disabled persons that may require the assistance from one of the restricted conveyances. Therefore, disabled

persons shall be allowed to legally operate a wheel chair, motorized quadricycle or motorized tricycle in the School Park Preserve to aid them in transportation.

Enforcement of the established rules and regulations defined in the ordinance shall only occur after placement of signs at primary public access points into the School Park Preserve. These signs shall define the rules and regulations that limit the use of conveyances identified in the ordinance.

Alternatives Available to Council; Implications of Alternatives

1. That the City Council allow the second reading of an ordinance regulating use and operation of city recreational facilities, and authorizes penalties for non compliance of established rules.
2. Do not allow the second reading of said ordinance regulating use and operation of city recreational facilities, and direct staff accordingly.

Fiscal Impact

There is no specific cost associated with the establishment of this ordinance other than the cost of signage; however it is recommended that bicycle racks be installed near the School Park Preserve at a cost of few hundred dollars.

ORDINANCE NO. 08-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN
AMENDING THE AUBURN MUNICIPAL CODE PENALIZING NON-
COMPLIANCE WITH RULES AND REGULATIONS GOVERNING USE
AND OPERATION OF CITY PARKS, RECREATIONAL AREAS AND
PUBLIC SPACES

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS

Section One: Code Amendment. Section 101.70 of the Auburn
Municipal Code is hereby adopted to read:

Section 101.70. "Rules and Regulations Governing Use and Operation of
City Parks, Recreational Areas and Public Space, Adoption by City Council
Resolution.

A. Adoption by Resolution. The City Council may establish by
resolution, rules and regulations governing use and operation of city parks,
recreational areas and public spaces (collectively, "recreational facilities").

B. Penalties and Enforcement. Copies of such rules and regulations
shall be posted at each recreational facility, and following such posting
violation of any posted rule shall constitute a misdemeanor and be subject to
the penalties provided in chapter 10 of this code."


Section Two: This Ordinance shall take effect thirty days following its
adoption as provided by Government Code Section 36937.

Section Three: Should any provision, section, paragraph, sentence or
word of this Ordinance be rendered or declared invalid by any final court action
in a court of competent jurisdiction or by reason of any preemptive legislation,

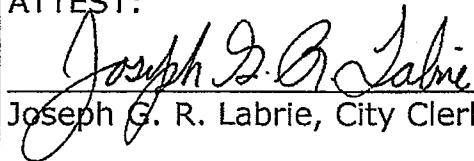
1 the remaining provisions, sections, paragraphs, sentences or words of this
2 Ordinance shall remain in full force and effect.

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4 Section Four: The City Clerk shall certify to the passage and adoption
5 of this Ordinance and shall give notice of its adoption as required by law.

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7 DATED: July 14, 2008

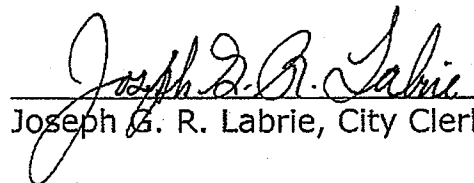
8 
9 KEITH NESBITT, Mayor

10 ATTEST:

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12 Joseph G. R. Labrie, City Clerk

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14 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify
15 that the foregoing ordinance was duly passed at a regular meeting of the City
16 Council of the City of Auburn held on the 14th day of July 2008 by the
17 following vote on roll call:

18 Ayes: Snyder, Hanley, Holmes, Powers, Nesbitt
19 Noes:
20 Absent:

21 
22 Joseph G. R. Labrie, City Clerk
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RESOLUTION NO. 08-99

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN ESTABLISHING
RULES AND REGULATIONS GOVERNING USE AND OPERATION OF THE
SCHOOL PARK PRESERVE

WHEREAS, the City Council has adopted an ordinance authorizing it to establish by resolution rules and regulations governing use and operation of city parks, recreational areas and public spaces; and

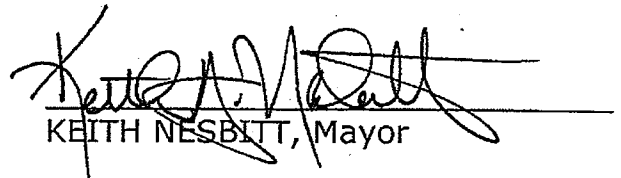
WHEREAS, the City Council desires to prohibit the use of any motorized vehicle, bikes, skateboards, and skating devices within the School Park Preserve to protect public health, welfare, and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE AS FOLLOWS:

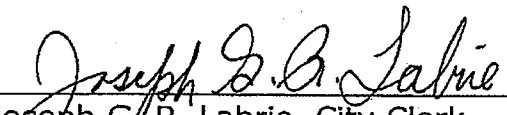
- a. That the use of any motorized vehicle, bike, skateboard, or other skating device within the School Park Preserve shall be prohibited.
- b. That the word "skateboard" and "skating device" shall have the same meaning ascribed to them in Section 71.44 of the Auburn Municipal Code.
- c. That disabled persons may operate a wheel chair, motorized quadricycle or motorized tricycle in the School Park Preserve notwithstanding paragraph a. of this Resolution.
- d. That this resolution shall be effective upon the effective date of Ordinance Number 08-07 and the posting of signs at or in the School Park Preserve giving notice of this restriction.

DATED: July 14, 2008

ATTEST:

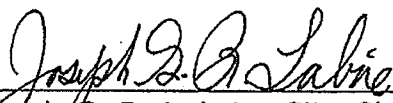

KEITH NESBITT, Mayor

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Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the foregoing resolution was duly passed at a regular meeting of the City Council of the City of Auburn held on the 14th day of July 2008 by the following vote on roll call:

Ayes: Snyder, Hanley, Holmes, Powers, Nesbitt
Noes:
Absent:


Joseph G. R. Labrie, City Clerk